

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>BENCHMARK HOMES, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>8:03CV527</b>
	)	
<b>vs.</b>	)	<b>SECOND AMENDED</b>
	)	<b>FINAL PROGRESSION ORDER</b>
<b>LEGACY HOME BUILDERS, LLC, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

This matter is before the court on the defendant Legacy Home Builders' Motion to Amend Final Progression Order (Filing No. 97). The court held a telephone conference with counsel for the parties regarding the motion on July 5, 2005. The motion will be granted regarding deadlines not already expired, as set forth below.

**IT IS ORDERED:**

1. The defendant Legacy Home Builders' Motion to Amend Final Progression Order (Filing No. 97) is granted as set forth below.

2. **Pretrial Disclosures:** Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall provide to all other parties the following information regarding the evidence that it may present at trial other than solely for impeachment purposes as soon as practicable **but not later than the date specified:**

**A. Deposition Testimony and Discovery - On or before January 10, 2006:** 1) The portions of each deposition, designated by page and line, that it intends to offer and 2) each discovery response of another party it intends to offer. Such designations and any objections thereto shall also be included in the final pretrial conference order. **See** NECivR 16.2.

**B. Trial Exhibits - On or before January 10, 2006:** A list of all exhibits it expects to offer by providing a numbered listing and permitting

examination of such exhibits. The parties shall also designate on the list those exhibits it may offer only if the need arises.

**D. Waiver of Objections:** Any objections to the use of witnesses, deposition designations, discovery responses, or exhibits shall be listed in the pretrial order. Failure to list objections (except those under Fed. R. Evid. 402 and 403) shall be deemed waived, unless excused by the court for good cause shown.

**E. Filing of Disclosures:** The filing of pretrial disclosures required by Fed. R. Civ. P. 26(a)(3) shall be deemed filed at the time of the filing of the Order on Final Pretrial Conference in this matter.

3. **Any** motions *in limine* shall be filed not later than **January 20, 2006**.

4. **All** motions for summary judgment shall be filed **on or before July 8, 2005**.

**See** NECivR 56.1 and 7.1.

5. **The Final Pretrial Conference** with the undersigned magistrate judge is set for **January 30, 2006, at 2:00 p.m.** in chambers, Suite 2271, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. The final pretrial conference shall be attended by lead counsel for represented parties. Counsel shall complete prior to the pretrial conference, all items as directed in NECivR 16.2. By the time of the pretrial conference, full preparation for trial shall have been made so that trial may begin at any time during the session indicated below.

6. **Trial** is set to commence **at 8:30 a.m. on February 21, 2006**, in Omaha, Nebraska, before the Honorable Joseph F. Bataillon and a jury.

Dated this 6th day of July, 2005.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge